

January 19, 2005

**OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON**

400 Yesler Way, Room 404  
Seattle, Washington 98104  
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**REPORT AND DECISION**

SUBJECT: Department of Development and Environmental Services File No. **L01P0026**  
Proposed Ordinance No. **2004-0550**

**FINN HILL SUBDIVISION**  
Preliminary Plat Application

Location: West side of 72<sup>nd</sup> Avenue Northeast between Northeast 132<sup>nd</sup>  
Street and Northeast 134<sup>th</sup> Street

Applicant: S & S Custom Construction, Inc.  
*represented by* **Steve Johnson**  
16030 Juanita-Woodinville Way NE  
Bothell, Washington 98011  
Telephone: (206) 362-4244

King County: Department of Development and Environmental Services,  
*represented by* **Trishah Bull**  
900 Oakesdale Avenue Southwest  
Renton, Washington 98055-1219  
Telephone: (206) 296-6758  
Facsimile: (206) 296-7051

**SUMMARY OF DECISION/RECOMMENDATION:**

Department's Preliminary Recommendation:  
Department's Final Recommendation:  
Examiner's Decision:

Approve, subject to conditions  
Approve, subject to conditions (modified)  
Approve, subject to conditions (modified)

**EXAMINER PROCEEDINGS:**

Hearing Opened: January 11, 2005  
Hearing Closed: January 11, 2005

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.  
A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

**ISSUES & TOPICS ADDRESSED:**

- Safe walking conditions
- Fee in lieu of open space
- Wetland investigation
- Vegetation retention (Holmes Point site disturbance P-Suffix conditions)

**SUMMARY**

The proposed subdivision of five lots on 1.2 acres in the Urban Area is approved subject to conditions.

**FINDINGS, CONCLUSIONS & DECISION:** Having reviewed the record in this matter, the Examiner now makes and enters the following:

**FINDINGS:****1. General Information:**

Owner/Developer:	Julie Smith S & S Custom Construction, Inc. 6224 138 <sup>th</sup> Place SW Edmonds, WA 98026 (425) 742-4497
Engineer:	Group Four, Inc. 16030 Juanita-Woodinville Way NE Bothell, WA 98011 (206) 362-4244
STR:	SW-24-26-04
Location:	The project is located on the west side of 72 <sup>nd</sup> Avenue NE between NE 132 <sup>nd</sup> Street and NE 134 <sup>th</sup> Street.
Zoning:	R-4-P
Acreage:	1.2
Number of Lots:	5
Density:	4 units per acre
Lot Size:	Ranges from approximately 7,900 to 10,800 square feet
Proposed Use:	Single-family detached dwellings
Sewage Disposal:	Northshore Utility District
Water Supply:	Northshore Utility District
Fire District:	King County District #41
School District:	Lake Washington School District #414

Complete Application Date: January 15, 2002

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's preliminary report to the Hearing Examiner for the January 11, 2005, public hearing are found to be correct and are incorporated herein by reference. The said report is exhibit no. 2 in the hearing record.
3. The proposed subdivision is governed by the 2000 King County Comprehensive Plan. It is also subject to P-Suffix conditions governing significant trees and vegetative management, that require review and approval of the Significant Tree and Vegetative Management Plan prior to engineering plan approval. Condition no. 18 below, as recommended by DDES, requires compliance with policy NS-P23.
4. Revised condition no. 14, as recommended by DDES (exhibit no. 20), assures safe walking conditions will be provided between this plat and school bus stops serving students residing within the plat.
5. Evaluation of the site by a qualified wetland biologist has determined that there is no wetland on the subject property. There is no substantial evidence that a wetland has existed or currently exists on this property.
6. The subject property is adjacent to a King County park, which lies directly across 72nd Avenue Northeast.
7. There has been extensive review of the drainage of surface water from this property. Conditions have been recommended by DDES and are imposed by the decision to require a piped conveyance from the detention vault to a safe, non-erosive outlet. The conditions imposed will prevent erosion within the ravine that lies immediately downstream of this property.

#### CONCLUSIONS:

1. If approved subject to the conditions recommended below, the proposed subdivision will comply with the goals and objectives of the King County Comprehensive Plan, subdivision and zoning codes, and other official land use controls and policies of King County.
2. If approved subject to the conditions recommended below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare, and for open spaces, drainage ways, streets, other public ways, transit stops, potable water supply, sanitary waste, parks and recreation, playgrounds, schools and school grounds and safe walking conditions for students who only walk to school; and it will serve the public use and interest.
3. The conditions for final plat approval set forth below are in the public interest and are reasonable requirements to mitigate the impacts of the development upon the environment.
4. The dedications of land and easements within and adjacent to the proposed plat, as required for final plat approval or as shown on the proposed preliminary plat submitted by the Applicant on June 21, 2004, are reasonable and necessary as a direct result of the development of this proposed plat, and are proportionate to the impacts of the development.

**DECISION:**

The preliminary plat of Finn Hill Subdivision, as revised and received June 21, 2004, is APPROVED, subject to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the base density requirements of the R-4-P zone classification. All lots shall meet the minimum dimensional requirements of the R-4-P zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.
4. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
5. The applicant must obtain the approval of the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.
6. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval which represent portions of the drainage requirements. All other applicable requirements in KCC 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.
  - a. Drainage plans and analysis shall comply with the 1998 King County Surface Water Design Manual. DDES approval of the drainage and roadway plans is required prior to any construction.
  - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
  - c. The following note shall be shown on the final recorded plat:

“All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # \_\_\_\_\_ on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any

building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."

- d. Storm water facilities shall be designed using the KCRTS level 2 flow control standard. Water quality facilities shall also be provided using the basic water quality protection menu as outlined in the drainage manual. The size of the proposed drainage tracts may have to increase to accommodate the required detention storage volumes and water quality facilities. All runoff control facilities shall be located in a separate tract and dedicated to King County unless portions of the drainage tract are used for recreation space in accordance with KCC 21A.14.180. Vehicular access to the drainage facility shall also be provided within a tract or easement dedicated to King County.
  - e. The applicant's drainage plans shall provide designs for conveying surface water from a topographic low area in the vicinity of proposed lot 5. An existing culvert is located beneath 72<sup>nd</sup> Avenue NE; however, the flat topography does not provide adequate conveyance of storm water. The final designs for the culvert shall be shown on the construction plans and all proposed lots shall have adequate drainage designs for conveyance of storm water to the proposed detention vault.
  - f. The proposed subdivision is located within an area mapped by King County as landslide hazard drainage area. To prevent downstream impacts to steep slopes and erosive soils, the applicant shall provide an offsite drainage tight line as outlined on page 1-18 of the King County drainage manual. The pipe system shall be designed and located to minimize disturbance to natural vegetation and reduce potential erosion. Within the area of steep slopes, the pipe system shall be located on the ground surface with appropriate structural attachment to the ground and adequate energy dissipation at the pipe outfall. Requirements for the design and construction of the drainage outfall and conveyance system are specified in Section 4.2.2 in the drainage manual. The overflow structures and conveyance pipe shall be designed to accommodate flows for the 100-year storm under developed site conditions. For the offsite pipe located on private property, a King County public drainage easement shall be provided which has sufficient width for proper location and maintenance. The final easement documents shall be prepared using standard forms prescribed by the King County drainage manual and submitted to DDES prior to engineering plan approval.
7. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS) including the following requirements:
- a. During preliminary review the applicant submitted a road variance application (File No. L02V0056) regarding roadway design, intersection spacing, sight distance, and the 100-lot limit. The variance received conditional approval on May 14, 2004. The final road improvements shall comply with the variance decision and the engineering plans shall include notes referencing the variance and indicating the need for field verification of all sight distance requirements.

- b. Tract A shall be designed as a private access tract serving proposed Lots 1-5. Improvements shall conform to requirements in KCRS 2.09B or as otherwise allowed by the approved road variance for this project. The serving lots shall have undivided ownership of the tract and be responsible for its maintenance.
  - c. 72<sup>nd</sup> Avenue NE shall be improved along the frontage of the property as an urban neighborhood collector street. The required road improvements shall address design standards for road surfacing outlined in KCRS Chapter 4. A full width pavement overlay shall be required as determined necessary by DDES in accordance with KCRS 4.01F.
  - d. Street trees shall be included in the design of all road improvements, and shall comply with Section 5.03 of the KCRS.
  - e. Modifications to the above road conditions may be considered by King County pursuant to the variance procedures in KCRS 1.08.
8. King County Code 16.82.150D requires seasonal limitations for construction within the Northshore Community Planning Area. During the period October 1 through March 31, clearing and grading is not allowed unless certain provisions are complied with as outlined in the code. The applicant's engineering plans shall demonstrate compliance with the applicable code requirements and provide notes referencing the seasonal limitations set forth in KCC 16.82.150D.
9. There shall be no direct vehicular access to or from 72<sup>nd</sup> Avenue NE from those lots which abut it. A note to this effect shall appear on the engineering plans and final plat.
10. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
11. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
12. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.

13. A fee-in-lieu of recreation space shall be paid by the applicant to King County. The amount of the fee shall be determined by the King County Park System, consistent with the provisions of K.C.C. 21A.14.185.
14. The applicant must comply with RCW 58.17.110 and KCRS 3.09, regarding appropriate school walkway conditions, prior to engineering plan approval. The applicant shall either widen 72nd Avenue NE from the plat frontage to the school bus stop location at the intersection of 72nd Avenue NE & NE 131st Place, consistent with the requirements of KCRS 3.09 (paved walk with at least five feet of additional paving), or to the elementary school bus stop location at the intersection of 72nd Avenue NE and NE 132nd street, or provide documentation from the school district that the urban frontage improvements constructed with the plat will be the new bus stop location for all students.
15. (Deleted)
16. Street trees shall be provided as follows (per KCRS 5.03 and KCC 21A.16.050):
  - a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along all roads. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
  - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
  - c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
  - d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the County has adopted a maintenance program. Ownership and maintenance shall be noted on the face of the final recorded plat.
  - e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
  - f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
  - g. The applicant shall contact Metro Service Planning at 684-1622 to determine if 72<sup>nd</sup> Avenue NE is on a bus route. If 72<sup>nd</sup> Avenue NE is a bus route, the street tree plan shall also be reviewed by Metro.

- h. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.
  - i. A landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current County fees.
17. (There is no condition no. 17.)
18. Pursuant to the Holmes Point Site Disturbance P-suffix conditions NS-P23, an approved Significant Tree and Vegetative Management Plan must be on file with the King County Department of Development and Environmental Services (DDES) prior to engineering plan approval. Lots 1, 2, 3, 4, and 5 contain trees and vegetation that must be retained or planted/replaced per the approved Tree and Vegetation Management Plan. Any proposed future clearing, grading, or construction activities that will or may impact a significant tree or vegetation within said lots must be reviewed and approved by the King County DDES Land Use Services Division, or its successor agency, for compliance with said Tree and Vegetative Management Plan.

ORDERED this 19th day of January, 2005.

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James N. O'Connor  
King County Hearing Examiner *pro tem*

TRANSMITTED this 19th day of January, 2005, to the parties and interested persons of record:

Steve & Jeri Alben  
13212 - 70th Ave. NE  
Kirkland WA 98034

Denny Creek Neighborhood  
Attn: Cheryl Meyers  
6615 NE 129th Pl.  
Kirkland WA 98034

Jan Fite  
13462 - 64th Terrace NE  
Kirkland WA 98034

Bruce Gardiner  
12040 - 98th Ave. NE, Ste. 101  
Kirkland WA 98034

Ken Goodwin  
11834 Holmes Point Drive  
Kirkland WA 98034

Group Four, Inc  
Attn: Steve Johnson  
16030 Juanita-Wood Way NE  
Bothell WA 98011



David Irons  
c/o SHOUT  
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Barbara McGrath  
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Trishah Bull  
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Current Planning Section  
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Kim Claussen  
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Lisa Dinsmore  
DDES/LUSD  
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Peter Dye  
DDES/LUSD  
Engineering Review  
MS OAK-DE-0100

Kristen Langley  
KC-DOT/RSD  
MS OAK-DE-0100

Carol Rogers  
LUSD/CPLN  
MS OAK-DE-0100

Steve Townsend  
DDES/LUSD  
Land Use Inspections  
MS OAK-DE-0100

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) ***on or before February 2, 2005***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before February 9, 2005***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3<sup>rd</sup> Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE JANUARY 11, 2005, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L01P0026.

James N. O'Connor was the Hearing Examiner in this matter. Participating in the hearing were Trishah Bull, Pete Dye, Kristen Langley and Nick Gillen, representing the Department; Steve Johnson representing the Applicant; George Ploudre and Jan Fite.

The following Exhibits were offered and entered into the record:

- Exhibit No. 1 DDES file no. L01P0026
- Exhibit No. 2 DDES preliminary report for January 11, 2005
- Exhibit No. 3 Application dated December 19, 2001
- Exhibit No. 4 Environmental Checklist received December 19, 2001
- Exhibit No. 5 Mitigated Determination of Non-significance dated December 1, 2004
- Exhibit No. 6 Affidavit of Posting indicating a posting date of January 30, 2002; received by DDES on January 31, 2002
- Exhibit No. 7 Preliminary plat map (revised) received June 21, 2004
- Exhibit No. 8 Land use maps – Kroll page 416W
- Exhibit No. 9 Assessor's maps: NW 25-26-04 and SW 24-26-04
- Exhibit No. 10 Preliminary Drainage Report (revised) by Group Four, Inc., received June 21, 2004
- Exhibit No. 11 Letter approving KCRS variance no. L02V0056 dated May 14, 2004
- Exhibit No. 12 Storm Water Outlet Evaluation (revised) received June 21, 2004
- Exhibit No. 13 Wetland Evaluation Report by Terra Associates, Inc., received December 19, 2001
- Exhibit No. 14 Vegetative Management Plan received March 27, 2003
- Exhibit No. 15 Entering Sight Distance Plan received March 27, 2003
- Exhibit No. 16 Letter received February 5, 2002, and emails (2) from George Ploudre
- Exhibit No. 17 Email from Ken Goodwin dated February 8, 2002
- Exhibit No. 18 Letter from Frank Radford received February 26, 2002
- Exhibit No. 19 Letter from Orville Murphy dated May 10, 2002
- Exhibit No. 20 Revised condition no. 14